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2002]

FIGHTING THE WAR ON DRUGS IN THE TWENTY-FIRST CENTURY: A PROSECUTOR'S PERSPECTIVE

WILLIAM H. RYAN, JR.*

IN this Article I will discuss the issue of the war on drugs. When we discuss the war on drugs, the debate is often about whether or not the war on drugs is worth the fight and whether we are winning or losing the war. There are many commentators in the popular media and many so-called "experts" in society who insist that we are not winning the war on drugs. Moreover, there seems to be an increasingly large group of people who are advocating the legalization of drugs.

I view the issue from my perspective as a prosecutor for most of my legal career. I became an assistant district attorney in Delaware County in 1975. I spent about six years as a trial lawyer in the courtroom trying all types of cases, including drug offenses. I then spent about six years as the first assistant district attorney. In 1987, I was elected District Attorney of Delaware County and re-elected in 1991. I left office in January of 1996. Since February of 1997, I have been the Director of the Criminal Law Division in the Office of Attorney General here in Pennsylvania. One of the Attorney General's main responsibilities is to perform drug enforcement work. Our office has in excess of 200 agents assigned to do drug investigations and we have a large contingent of attorneys who assist in the investigation and, of course, handle the prosecution of drug offenders.

From my perspective as a prosecutor, it is my view that (1) the war against drugs is worth waging because we do not have any other choice and (2) we are, despite the protestations of some in society, winning the war. Sometimes it may not seem that way, but there is no doubt in my mind that our society is in much better shape with respect to our drug problem today than we were as recently as the early 1980s.

What has come to be known as the drug problem in the United States probably began in the late 1960s, which also marked the beginning of a period of great social change. The drug of choice for young people during 1967-1968 was probably marijuana. There was also a significant heroin problem, especially in some low-income areas of the country. Beginning in the late 1960s and throughout the decade of the 1970s, the problem with drug abuse intensified. As the 1970s progressed, we saw an increase in the use of methamphetamine, PCP and also cocaine. Many people originally believed that cocaine was a safe drug, but the American public

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quickly discovered that it was not safe at all. Contrary to initial perceptions, cocaine proved to be highly addictive and devastating to physical health.

During this period, from the late 1960s right through the 1970s and into the early 1980s, there was not much effective law enforcement in the area of narcotic sales and distribution. The attitude of what I call, for lack of a better word, the establishment in American society, was that drug abuse was no big deal. Drug abuse was not taken seriously. Drug use was not only accepted as part of life, but it was also glorified in everyday American life and in our culture—especially in music, television and the movies. Law enforcement could do very little in this environment. There were few arrests for personal use and even those who were charged with possessing with the intent to deliver large amounts of drugs often received lenient sentences.

This relaxed attitude about drug use continued into the early 1980s. It was then that the American people realized that we had an enormous social problem on our hands and we became aware that we had a very large number of people who were doing drugs, especially cocaine, methamphetamine and heroin. The number of people who were addicted was alarmingly high. These addiction problems brought with them all of the other social problems that we read about in our newspapers and saw on television.

Finally, in the early 1980s the establishment woke up to the fact that we did have a huge social problem and we had to do something about it. What happened next was, in my opinion, a social phenomenon. Society's attitude about drug abuse changed about 180 degrees. Here in Pennsylvania and throughout the country, we saw the state legislatures pass much tougher drug laws with sometimes draconian sentences for those who deal drugs. We saw a marked increase in anti-drug education in our schools and in the news media. Our young people were now being told that if they did drugs they might not get into college, obtain a student loan and receive a license to drive. The attitude of most people in society went very quickly from tolerance to intolerance. Even on television, in the movies and in the record industry there was a growing movement against drug abuse.

The changed attitude persisted throughout the rest of the 1980s, and a close look at the statistics show that there was real success in this war on drugs because the number of people doing marijuana, doing cocaine, doing other hard drugs, dropped significantly.

Progress against drug abuse continued, admittedly unevenly, throughout the 1990s. Today, I do not think anyone involved in the war on drugs, either as a law enforcement officer, a probation officer or a drug counselor, would deny, if that individual has been around for the last twenty years, that we are in much better shape today than we were in the early 1980s. The reason we are in better shape is because society has taken a

stand and been aggressive at every level in combating drug abuse. We may not be as far along as we would like, but we are still making real progress in the war. That kind of progress is difficult to make when one considers the size of our country, the fact that we put such a value on individual freedom and choice and the fact that we still have many social problems that are the breeding ground for drug abuse.

My own view about the future of the war on drugs is that we have no choice but to continue to do what we have been doing since the early 1980s. As I just stated, we are making slow steady progress. We cannot expect miracles but, if we continue the way we are going, then the problem will gradually continue to shrink.

It is important for me to add here that those of us in law enforcement understand full well that the main reason for our success in recent years has not been law enforcement, although effective law enforcement is vitally important to the success of our effort. Strong law enforcement, including tough sentences for drug dealers, shows society is committed and dedicated to winning this war. Strong law enforcement also shows the criminal element that we are serious about dealing with this problem and there is no question that strong law enforcement does deter some people from getting involved in the drug culture and in dealing drugs. Unfortunately, the trafficking of narcotics is such a profitable endeavor that we will never dissuade everyone from gambling that he or she can deal drugs, make money and get away with it.

The main weapon in the war has been, and will continue to be, the public relations effort that all levels of American society must be involved in. Our society must continue to convince young people that drug abuse is destructive and will not be tolerated. In other words, we have to deal with the demand problem by making it clear to our young people and to each other that drug abuse is anti-social conduct and that we as a society simply cannot tolerate drug abuse among us.

I would now like to deal briefly with the issue of the legalization of drugs. As you can tell, I am opposed to that because I think that the policy of legalization is doomed to failure. I can understand why those who propose legalizing drugs see this as a solution. We have been fighting this war for a long time. We have been spending a lot of money. We have put a lot of drug dealers in jail for long periods of time. As a society we are probably tired of this effort and to some people continuing the fight just does not seem to be worth it.

The problem with legalization, to me, is rather simple. If we legalize drugs, we are telling people, especially young people, that society does not care if they do drugs or not. Without the prohibition and the penalties, the message that will be conveyed to young people is that it is okay to do drugs. Human nature being what it is, that has to result in an increase and, I would argue, a dramatic increase in the number of people getting

involved in drugs who are not now doing drugs. Therefore, there will be a large increase in the number of people becoming addicted to drugs.

I think we have a pretty good idea of what legalization would do from our own recent history in the United States. As I said earlier, the drug problem got steadily worse from the late 1960s into the 1980s when the attitude of society was pretty much "do what you want" and the penalties for drug abuse were almost non-existent. The penalties for drug dealers were very lenient. What we saw was a steadily growing drug problem. I fail to see why things would be any different today if we do another 180 degree turn back to the early 1970s and tell our young people and our citizens who have family and social problems that we do not care if they do drugs. How can we expect anything but a huge increase in the number of people doing drugs and therefore a huge increase in all of the social problems that drug addiction brings with it?

One of the most popular arguments by those who support drug legalization is that if we legalize drugs we will see a marked decrease in our violent crime because the profit motive will be taken out of the drug trade and, without the profit motive, we will not see the turf battles and the violence that our society has admittedly seen connected to the drug trade over the last twenty-five years. I would admit that we might see a decrease in some types of violent crime. We certainly would see fewer drug dealers killing other drug dealers. But, I think that we would see a huge increase in other types of crimes. I am certain we would see a marked increase in domestic crimes as drug addicted adults are more assaultive toward their family members, including their children. In addition, we can expect an increase in theft-type crimes as people who are addicted to drugs have difficulty maintaining employment and resort to criminal acts such as theft and credit card fraud just to get by.

Those who are involved in our criminal justice system, from prosecutors and judges to prison officials and social workers, know that there is a direct connection between drug addiction and criminal conduct. Legalization of drugs has to mean more drug addicts and that has to mean more, not less, criminal conduct.

There is another argument that proponents of drug legalization put forth, and that is that our society is filling our prisons with people whose only offense is drug possession. In my view, there is no substance to that allegation. There are, I am sure, many people in prison who have drug problems, but they are not in jail because they have drug problems. They are in jail because they committed other crimes, probably serious crimes. The fact is that there are very few people who are in jail because they possessed a small amount of a controlled substance and were sentenced on that charge to a prison term. There may be some in that category who are in jail because they have lengthy criminal histories and the sentencing judge decided that he or she had no choice but to finally impose a jail sentence. The number of people in that group is microscopic, I am sure.

The people who are in jail are there for committing serious crimes or because they have long histories which make them predators, and jail is the only place where they can be deterred.

I would like to make one final point on the issue of drug legalization and that is, "it is not going to happen." I think this is especially true after September 11th, but even before that date, a majority of the American people had grown used to—and perhaps even comfortable—with the war on drugs. Our nation has been through a lot over the last twenty years and the American people are cognizant of what the drug culture can do. They do not want to go back to where we were in the 1970s and, especially after September 11th there is an even greater concern with security. I do not mean national security; I mean personal security. I do not see how a proposal to legalize drugs would gain many supporters in American society today.

